# KAISER PHARMACY BENEFIT MAXIMUMS

**ACTION:** Denied October 4, 2002

Kaiser Foundation Health Plan Amendment filed August 23, 2002; 2003 Commercial Group Evidence of Coverage proposing the imposition of pharmacy benefit calendar year maximums in the range of $500 to $10,000.

## SUMMARY

The Amendment filed by Kaiser Foundation Health Plan (the "Plan") proposed to offer group subscribers a pharmacy plan that would limit prescription drug coverage to $500 to $10,000 per calendar year. Under the proposal, the benefit maximums would be computed based upon the member rate for the drug minus any copayment paid by the member. The amount of the cap would be determined based upon the contract selected by the employer group. A small number of drugs would not be subject to the caps. However, many drugs necessary to treat life-threatening illnesses, such as those drugs used to treat HIV/AIDS, would be limited by the caps. As a result, members with HIV/AIDS and many other of the Plan's sickest and most high risk members would be left with no prescription drug coverage for the remainder of the calendar year after reaching their prescription drug benefit maximums.

## BASIS OF ACTION

The Department denied the proposed pharmacy benefit maximums under existing law without reference to the more rigorous requirements of Senate Bill 842 (effective January 2, 2003). Specifically: (i) The caps would effectively deny prescription drugs to members with serious illnesses or ongoing medical needs, rendering the pharmacy benefit illusory in violation of Health and Safety Code Section 1367(h) and California Code of Regulations Title 28 Section 1300.67.4(a)(3)(A), and (ii) The caps would violate Health and Safety Code sections requiring the provision of specified drugs: Section 1367.21, drugs for a purpose different from FDA approved use; Section 1367.215, pain management medications for terminally ill patients; Section 1367.25, prescription contraceptive methods; Section 1367.45, AIDS vaccine; and Section 1367.51, medications for treatment of diabetes, because once members reach the caps these drugs are not covered by the Plan. The Department also determined that such maximums violate Health and Safety Code Sections 1367(d) and 1367(e) because continuity of care is denied, and a medication is not readily available and accessible, when an enrollee who cannot afford to purchase an ongoing medication is forced to stop taking the medication after reaching his or her pharmacy cap. The proposed maximums also violate Health and Safety Code Section 1363 because the Plan cannot adequately disclose the benefit maximums to patients who have no way of knowing when they will reach a cap and the deleterious effect such a cap may have on their health.